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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,358	10/03/2003	Masahito Furuya	03166	9824

23338 7590 10/04/2005

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

EXAMINER

NI, SUHAN

ART UNIT

PAPER NUMBER

2646

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/677,358

Applicant(s)

FURUYA ET AL.

Examiner

Suhan Ni

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/3/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to the application filed 10/03/2003.
2. The Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group **Art Unit 2646**.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130 (b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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3. Claims 1-5 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,711,274. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of U. S. Patent No. 6,711,274 is similar in scope to claims 1-5 of this U. S. Pat. Application with obvious wording variations.

4. Claims 1-5 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,744,895. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of U. S. Patent No. 6,744,895 is similar in scope to claims 1-5 of this U. S. Pat. Application only with obvious wording variations.

5. Claims 1-5 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Pat. Application No. 10/677,357. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-4 of U.S. Pat. Application No. 10/677,357 are similar in scope to claims 1-5 of this U. S. Pat. Application only with obvious wording variations.

6. Claims 1-5 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Pat. Application No. 10/778,217. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-5 of U.S. Pat. Application No. 10/778,217 are similar in scope to claims 1-5 of this U. S. Pat. Application only with obvious wording variations.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by applicant admitted prior art (AAPA).

Regarding claim 1, AAPA discloses an acoustic device (Fig. 6), comprising: a case (20); a frame (1) set in the case; a first diaphragm (6) of a speaker (4-6) and a second diaphragm (11) of a receiver (9-11) provided in the frame; a first back chamber (22a) behind the first diaphragm and a second back chamber (22b) behind the second diaphragm; and a baffle (2) formed on a part of the frame for dividing the case so as to separate the first and second back chambers from each other as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant admitted prior art (AAPA) in view of Akino et al. (U. S. Pat. - 6,091,828).

Regarding claims 2-5, AAPA further discloses the acoustic device, wherein said one of the chamber is opened to the inside of the case (through c or e), but AAPA does not clearly teach that said one of the chamber is or both chambers are opened to the outside of the case as claimed. Akino et al. disclose a similar structured acoustic device, comprising (Fig. 2): a case; a frame set in the case; a first diaphragm (24) and a second diaphragm (32) provided in the frame; a first back chamber behind the first diaphragm and a second back chamber behind the second diaphragm; and a baffle, wherein said chambers are opened to the outside of the case, it therefore would have been obvious to one skilled in the art at the time the invention was made to be motivated to provide suitable acoustic pathway, or openings for venting the compressed air from a dead chamber or chambers for the acoustic device as an alternate choice, in order to provide the acoustic device having more desirable acoustic outputs.

Conclusion

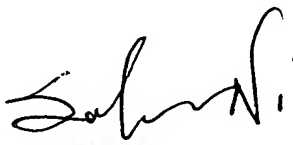
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Suhan Ni** whose telephone number is (571)-272-7505, and the number for fax machine is (571)-273-7505. The examiner can normally be reached on Tuesday and Thursday from 10:00 am to 8:00 pm, and may be reached on Monday, Wednesday and Friday from 10:00 am to 8:00 pm. If it is necessary, the examiner's supervisor, **Sinh N. Tran**, can be reached at (571)-272-7564.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (**PAIR**) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (571)-272-2600, or please see <http://www.uspto.gov/web/info/2600>.


SUHAN NI
PRIMARY EXAMINER

September 30, 2005